

**PUBLIC NOTICE  
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION  
CITY OF SAN JOSÉ, CALIFORNIA**

***Project File Number, Description, and Location***

**PDC03-018.** Planned Development Rezoning from CN Neighborhood Commercial and R-2 Two-Family Residence Districts to A(PD) Planned Development Zoning District and subsequent permits to allow up to 82 multi-family attached residential units and up to 2,500 square feet of retail space, located on a 1.63-gross acre site at the southeast corner of 12<sup>th</sup> and Keyes Streets. (City of San Jose, Owner / ROEM Development Corp., Developer). Council District: 3

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

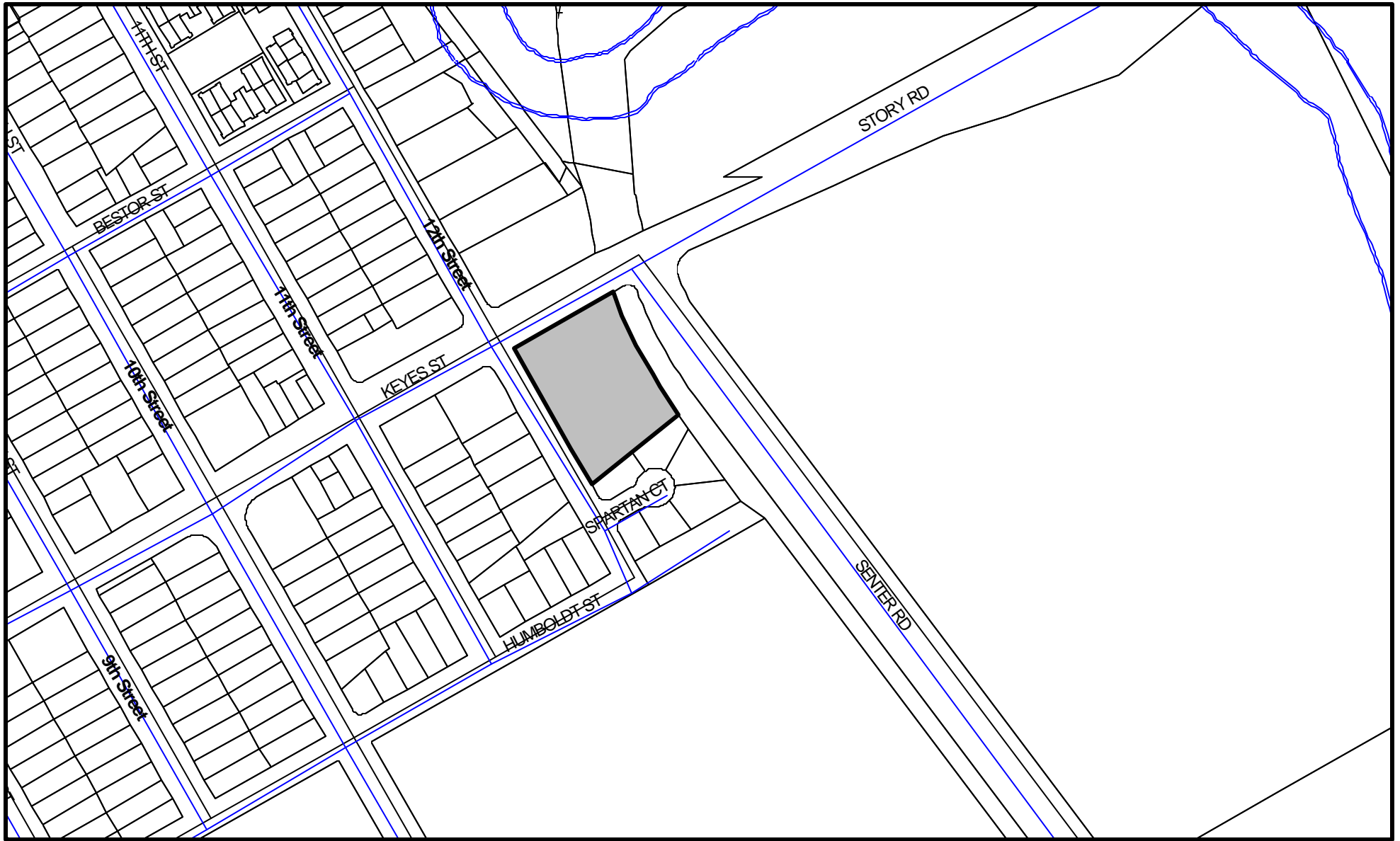
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **June 10, 2003** and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **May 22, 2003** and ends on **June 10, 2003**.

A public hearing on the project described above is tentatively scheduled for **June 11, 2003 at 6:00 p.m.** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 180 W. San Carlos Street, the Biblioteca Latinoamericana Branch Library, 921 S. First St., and online at <http://www.ci.san-jose.ca.us/planning/sjplan/eir/MND2003.htm> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **John Davidson, Project Manager** at (408) 277-8831.

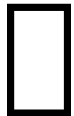
Stephen M. Haase, AICP, Director  
Planning, Building and Code Enforcement

Date: May 21, 2003

\_\_\_\_\_  
Deputy



Scale: 1"=300'



**File No: PDC03-018**

**District: 3**

**Quad No: 83**

## PUBLIC HEARING NOTICE

A change in Zoning will be considered at Public Hearings before the Planning Commission on **Wednesday, June 11, 2003, at 6:00 p.m.** and before the City Council on **Tuesday, June 17, 2003, at 7:00 p.m.**

These Public Hearings will be held in accordance with Title 20 of the San Jose Municipal Code in the City Council Chambers, on the second floor of City Hall, at 801 North First Street, San Jose, California. You are welcome to attend and to speak on this issue. If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the Public Hearing or in written correspondence delivered to the City at or prior to the Public Hearing.

The project being considered is:

**PDC03-018. Planned Development Rezoning from CN Neighborhood Commercial and R-2 Two-Family Residence District to A(PD) Planned Development District to allow up to 82 multi-family attached residences and up to 2,500 square feet of retail space on a 1.64 gross acre site, located at/on southeast corner of Keyes and 12th Streets (City of San Jose, Owner; ROEM Corporation, Developer). Council District 3. CEQA: Mitigated Negative Declaration.**

Reports, drawings, and documents for this project are on file and available for review 9:00 a.m. to 5:00 p.m., Monday through Friday at:

Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San Jose, CA 95110  
(408) 277-4576  
[www.ci.san-jose.ca.us/planning/sjplan/](http://www.ci.san-jose.ca.us/planning/sjplan/)

A staff report and recommendations will be available for your review during the week of the Public Hearing at the Department of Planning, Building and Code Enforcement and in a Public Packet at the hearing.

Comments and questions are welcome, and should be referred to the Project Manager, **John Davidson**, of the Department of Planning, Building and Code Enforcement. Please refer to the above file number for further information on this project. For your convenience, contact Linda LaCount at the above telephone number the week of the Public Hearing to verify that this item will be heard and is not scheduled for deferral to a later date.

Stephen M. Haase, AICP  
Director, Planning, Building and Code Enforcement

**Akoni Daniels**, Senior Planner  
Dated: **May 13, 2003**

Patricia L. O'Hearn, City Clerk

SECTION 20.120.400 OF THE SAN JOSE MUNICIPAL CODE  
ESTABLISHES A FORMAT PROTEST PROCEDURE FOR REZONINGS  
AND PREZONINGS BEFORE THE CITY COUNCIL

If you are the owner of property to be rezoned, or if you own property adjacent to or across the street from a proposed rezoning or prezoning, you may file an Official Protest. Such protest must be made on a form provided by the Director of Planning and must be filed in the Department of Planning, Building and Code Enforcement **by 5:00 p.m.** on the fifth day before the City Council opens its public hearing on the proposal (that is, the Thursday before a Tuesday hearing). A separate protest petition shall be filed for each separate protesting site. Contact the Department of Planning, Building and Code Enforcement if you have any questions.

Noticing Radius: **1,000 f**

**DRAFT  
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** 12<sup>th</sup> and Keyes Family Housing

**PROJECT FILE NUMBER:** PDC03-018

**PROJECT DESCRIPTION:** Planned Development Rezoning from CN Neighborhood Commercial and R-2 Two-Family Residence Districts to A(PD) Planned Development Zoning District and subsequent permits to allow up to 82 multi-family attached residential units and up to 2,500 square feet of retail space, located on a 1.63-gross acre site at the southeast corner of 12<sup>th</sup> and Keyes Streets.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** Southeast corner of 12<sup>th</sup> and Keyes Streets, APN No. 477-04-029

**COUNCIL DISTRICT:** 3

**NAME OF APPLICANT:** ROEM Development Corp.

**MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:**

Robert Emami, 1895 Dobbin Drive, San Jose, CA 95133-1702

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

**MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

**Air Quality**

1. During construction, the following measures shall be incorporated to mitigate any possible significant air quality impacts.
  - Dust-proof chutes would be used for loading construction debris onto trucks.
  - Watering would be used to control dust generation during break-up of pavement.
  - Water all active construction areas at least twice daily.

- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Install fiber rolls or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.

### **Geology and Soils**

2. The buildings would be designed and built in conformance with a design-level geotechnical report and with the requirements of the 1997 Uniform Building Code for Seismic Zone 4.
3. Buildings and the subsurface garage would be designed and constructed in accordance with a design-level geotechnical investigation prepared for the site, which identifies the specific design features that would be required for the project, including site preparation, compaction, excavation, foundation and subgrade design, drainage, and pavement design. The geotechnical investigation shall be reviewed and approved by the City Public Works Department prior to issuance of a building permit for the project.

### **Hydrology and Water Quality**

4. The project would comply with the NPDES General Construction Activity Storm Water Permit administered by the Regional Water Quality Control Board. Prior to construction grading for the proposed land uses, the applicant would file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a Storm Water Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. The following measures would be included in the SWPPP:
  - Preclude non-storm water discharges to the storm water system.
  - Effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
  - Coverage of soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff.
  - Perform monitoring of discharges to the storm water system.

The project would submit a copy of the draft SWPPP to the City of San José Department of Environmental Services for review and approval prior to construction of the project. The certified SWPPP would be posted at the project site and would be updated to reflect current site conditions.

When the construction phase is complete, a Notice of Termination (NOT) for the General Permit for Construction would be filed with the Regional Water Quality Control Board and the City of San José Department of Environmental Services. The NOT would document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction storm water management plan is in place as described in the SWPPP for the site.

The project would comply with the City of San José Grading Ordinance, including erosion- and dust-control during site preparation and with the City of San José zoning ordinance requirement for keeping adjacent streets free of dirt and mud during construction. The following specific measures would be implemented to prevent storm water pollution and minimize potential sedimentation during construction:

- restricting grading to the dry season or meet City requirements for grading during the rainy season;
- using Best Management Practices to retain sediment on the project site;
- providing temporary cover of disturbed surfaces to help control erosion during construction; and
- providing permanent cover to stabilize the disturbed surfaces after construction has been completed.

As part of the mitigation for post-construction runoff impacts addressed in the SWPPP, the project would implement regular maintenance activities (i.e., sweeping, maintaining vegetative swales, cleaning storm water inlet filters, litter control) at the site to prevent soil, grease, and litter from accumulating on the project site and contaminating surface runoff. Storm water catch basins would be stenciled to discourage illegal dumping.

## Noise

5. The proposed building is subject to noise impacts from surrounding uses, including Senter Road and the Union Pacific Railway to the east and Keyes Street to the north.

### Mitigation for Noise Impacts to the Project

- Final plans will be reviewed by an acoustical engineer to confirm that indoor noise levels would be below 45 dBA DNL and specify what design features are needed.
- Interior noise levels within all residential units must be maintained at or below 45 DNL, per the requirements of the City of San José, the State Building Code, and HUD requirements. Therefore, prior to the approval of building permit to construct the project, a qualified Acoustical Engineer would be retained to prepare a detailed acoustical analysis of interior noise exposure. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation for all new units facing out to Keyes Street and Senter Road, so that windows could be kept closed at the occupant's discretion to control noise. Special building construction techniques (e.g., sound-rated windows and building facade treatments) may also be required for new residential uses.
- Private balconies would be located either on courtyard facing units, the units facing South 12<sup>th</sup> Street, or the units facing the southern property line.

### Mitigation for Construction Noise

- Construction operations would use available noise suppression devices and techniques. The equipment would be properly muffled and maintained.
- Construction activities would be limited to the hours of 7:00 AM to 7:00 PM, and restricted to weekdays only.
- 'Quiet Package' construction equipment (e.g., compressors and generators) would be used to the greatest practical extent.
- It is recommended that construction vehicles traveling to and from the site be prohibited from using residential streets (i.e., 7<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> Streets) to the extent feasible.

### PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **June 10, 2003**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP, Director  
Planning, Building and Code Enforcement

Circulated on: May 21, 2003

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Deputy

Adopted on: \_\_\_\_\_

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Deputy